

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 17-1690V

Filed: July 31, 2018

UNPUBLISHED

ROBERT NEAL,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);
Ruling on Entitlement; Concession;
Table Injury; Influenza (Flu) Vaccine;
Shoulder Injury Related to Vaccine
Administration (SIRVA)

Isaiah Richard Kalinowski, Maglio Christopher & Toale, PA, Washington, DC, for petitioner.

Lara Ann Englund, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On November 3, 2017, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the “Vaccine Act”). Petitioner alleges that he suffered a shoulder injury related to vaccine administration (“SIRVA”) which meets the criteria of a Table injury or, in the alternative, was causally related to the seasonal influenza vaccination he received on November 28, 2016. Petition at ¶¶ 3-4, 14-15. Petitioner further alleges that he received the vaccination in the United States, that he suffered the residual effects of his injuries for more than six months, and that neither he nor any other party has filed a civil action or received compensation for his injuries, alleged as vaccine caused. *Id.* at ¶¶ 3-4, 13, 17-

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

18. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On July 31, 2018, respondent filed his Rule 4(c) report in which he concedes that petitioner is entitled to compensation in this case. Respondent's Rule 4(c) Report at 1. Specifically, respondent "concluded that petitioner suffered a Table SIRVA." *Id.* at 4. Respondent further agrees "petitioner has satisfied all legal prerequisites for compensation under the Act." *Id.*

In view of respondent's position and the evidence of record, the undersigned finds that petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey
Chief Special Master